

The Department's Motor Fuel Use Tax regulations at 86 Ill. Adm. Code 500.305 set forth the information that an applicant must provide in order to be registered for the Motor Fuel Use Tax. (This is a GIL.)

January 14, 2004

Dear Xxxxx:

This letter is in response to your letter dated September 22, 2003, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

This letter is to follow up on your conversation last week with ABC during which you stated that you would forward to a Department of Revenue lawyer the questions we have raised in connection with the application for license and decals of XYZ.

ABC is a public company, the stock of which is traded. The applicant, XYZ, is a wholly owned subsidiary of ABC.

During the application process, ABC officers' names were mistakenly listed in Item 21 of the application. When questioned about the necessity of including their social security numbers ('ss#'s'), the Department stated that the officer names, as well as their respective ss#'s were required before the application could be considered, and license and decals issued.

ABC takes issue with the Department's position on the following legal bases:

The applicant is XYZ which is owned by ABC. Item 21 requests that an applicant which is a corporation list its owner **or** corporate officers. ABC is the owner of XYZ. Thus, according to the plain language of the application, ABC should be entered in Item 21 along with its employment identification number. This, by the

way, is the requirement of and found to be acceptable by other states in which we have applied for such licenses.

In any case, and without conceding the position raised above, the officers the Department of Revenue insists we list are those of ABC, the parent of the applicant. Clearly, in all events, this is inappropriate.

We have stated the legal bases for our position that by the terms of the application, only ABC, the owner of XYZ, need be named in response to Item 21. Additionally, we have grave concerns about disclosing ss#'s of any of our officers in the current identity theft environment. You have assured us that our concerns are unfounded; nonetheless and without questioning the integrity of Department of Revenue employees, we believe to risk of unauthorized disclosure is unwarranted, especially given the apparent lack of a required disclosure.

We would appreciate a review of this request and a response as soon as practicable.

Thank you for your assistance.

The Department's Motor Fuel Use Tax regulations at 86 Ill. Adm. Code 500.305 provide that:

- a) Applications for motor fuel use tax licenses and decals shall be made under oath and on forms provided by the Department. Information provided to the Department shall include:
 - 1) a carrier's Federal Employer Identification Number (in the case of a sole proprietorship, the Social Security number of the owner);
 - 2) owner, partnership or corporate name;
 - 3) name, title and social security number of all officers, partners or owners;
 - 4) legal business name (if different from subsection (a)(2));
 - 5) physical location of the business;
 - 6) mailing address of the business;
 - 7) signature of the applicant. All applications must be signed by an officer, partner, or owner of the entity seeking licensure, or an employee who has the control, supervision or responsibility of filing returns and making payment of the tax. Reporting services or other persons responsible for reporting a licensee's tax obligations under a power of attorney are permitted to sign an application on behalf of any applicant provided that a properly executed power of attorney accompanies each application;
 - 8) type of fuel(s) used by applicant;
 - 9) number of decals required by the licensee;

- 10) decal fee;
- 11) for IFTA applicants, a statement of the existence of bulk storage facilities in all member jurisdictions;
- 12) a statement that the applicant agrees to comply with reporting, payment, recordkeeping, and license display requirements, and all applicable regulations. IFTA applicants must agree that the base jurisdiction may withhold any refunds due if the applicant is delinquent on payment of motor fuel use taxes due any member jurisdiction or taxes owed to the Department; and
- 13) Such other information as the Department deems necessary.

The Department interprets this to mean that if the applicant is a corporation, the name, title, and social security number of the corporate officers should be provided. If the applicant is not a corporation, the name, title, and social security number of the partners should be provided or, if there are no partners, then the name, title, and social security number of the owners.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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